

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**ROBERT CYRUS,**

**Plaintiff,**

**vs.**

**HYUNDAI MOTOR MANUFACTURING  
ALABAMA, LLC,**

**Defendant.**

**CIVIL ACTION NO.:**

**2:07-cv-00144-ID-TFM**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S  
MOTION TO SUPPLEMENT AND AMEND  
HIS EVIDENTIARY SUBMISSION**

Defendant Hyundai Motor Manufacturing Alabama, LLC ("HMMA"), files this opposition to Plaintiff's Motion to Supplement and Amend His Evidentiary Submission. HMMA submits that the Plaintiff's motion is due to be denied, and that the evidence and the additional summary judgment arguments that the Plaintiff makes in his motion should be stricken from the record. HMMA states as follows:

1. This Court entered a Uniform Scheduling Order on April 17, 2007. The Scheduling Order provided a dispositive motion deadline of January 18, 2008. Defendant filed its motion on that date, and the Court thereafter entered an order that "[t]he Plaintiff is DIRECTED to file a response to said motion on or before February 5, 2008." (January 22, 2008 Order).

2. The Order provided that Defendant may file a reply if desired on or before February 12, 2008, and that the motion would be deemed submitted to the Court upon that date.

3. The Court's order regarding the submission of briefs and evidence provides that "pleadings submitted beyond the submission date will not be considered by the Court absent compelling exigent circumstances." (January 22, 2008 Order)(emphasis added).

4. Plaintiff later filed a motion requesting an extension of time to respond to the Defendant's motion for summary judgment, which the Defendant did not oppose. The Court granted the motion, thereby making the submission complete upon the Defendant's filing of a reply brief on February 26, 2008.

5. Now, almost a month after the submission deadline, Plaintiff seeks to file additional evidence and arguments in opposition to Defendant's Motion for Summary Judgment.

6. Plaintiff has known about the existence of Keith Duckworth as a crucial fact witness since long before the filing of this lawsuit. Indeed, Plaintiff makes numerous specific references in his Complaint, filed on February 16, 2007, to his interaction with Mr. Duckworth. (Complaint, ¶ 7, 10-14).

7. Mr. Duckworth is now working as a member of management with Hyundai Motor America ("HMA"). Plaintiff took the deposition of Keith Duckworth on February 28, 2008. Mr. Duckworth was made available for his deposition through the attorneys for Hyundai Motor America to be deposed for both this case and a separate lawsuit that Plaintiff has pending against both HMMA and HMA in the Circuit Court of Montgomery County, Alabama.

8. Plaintiff has offered no "compelling exigent circumstances" as to why this pleading submitted beyond the submission date should be considered by the Court, as was required by the Court's Order. Therefore, this evidence and Plaintiff's arguments in his motion should not be considered by the Court. In the alternative, to the extent the Court allows the motion and evidence to be considered by the Court, the Defendant would request that it be

allowed 14 days from the date of such order to provide a response to the substantive arguments made by Plaintiff in the motion.

**WHEREFORE**, Defendant requests that the Court deny the Plaintiff's Motion to Supplement and Amend His Evidentiary Submission and strike that pleading so that it is not considered by the Court in its deliberative process. In the alternative, if the pleading is allowed by the Court, Defendant requests that it be allowed 14 days from the entry of any order granting such motion to provide its response to the arguments made in that pleading.

s/ Brian R. Bostick

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Attorneys for Defendant Hyundai Motor  
Manufacturing Alabama, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of March, 2008, I electronically filed the foregoing Defendant's Opposition to Plaintiff's Motion to Supplement and Amend His Evidentiary Submission with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Richard J. Stockham, III.

s/ Brian R. Bostick

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